

Notice of Allowability

Application No.

10/001,453

Examiner

Tekchand Saidha

Applicant(s)

FOX ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 31 January 2005.
2. ☒ The allowed claim(s) is/are 1-5,8-10,12-15,17-19,21-25 and 27-41.
3. ☒ The drawings filed on 22 October, 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Notice of Allowability

1. Applicants' amendment filed January 31 2005, is acknowledged.
2. Claims 1-5, 8-10, 12-15, 17-19, 21-25 & 27-41 are pending and under consideration in this examination.
3. Applicants' arguments have been found to be persuasive in the light of the claim amendments. The amended claims are described, enabled and free of prior art. Therefore all prior rejections are withdrawn.
4. Claims **1-5, 8-10, 12-15, 17-19, 21-25 & 27-41** are allowed.
5. The following is an examiner's statement of reasons for allowance:

The Application provides an unobvious labeled acyl carrier protein having at least one tyrosine residue and a non-radioactive label bonded to the tyrosine residue, wherein the non-radioactive label is a fluorophore. Method(s) for making and using the product are also provided. Although McAllister et al. teach an assay, the label is attached to the Acps substrate, co-enzyme A ("CoA"). The COA is then incorporated into the apo-APC as the phosphopantetheine prosthetic group (to thereby yield holo-ACP). COA and the phosphopantetheine prosthetic group are closely related (see Exhibit A, submitted by the Applicants). Also as noted in Applicants' specification at page 1, lines 15-20, the phosphopantetheine prosthetic group is attached to a conserved serine residue in apo-ACP. Applicants arguments regarding McAllister et al's assay, that the fluorescein label is never attached to an apo-ACP; and that the APO-ACP lacks the phosphopantetheine prosthetic group is found to be persuasive. McAllister et al. do not teach the subject matter of the claims as amended. Further, no prior reference taken alone or in combination either teach, suggest or provide motivation to one of ordinary skill in the art to use the skills available in the area of chemistry, enzymology or molecular biology or make obvious the claimed invention.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should

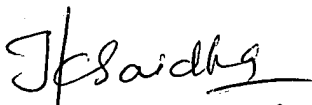
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preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha whose telephone number is (571) 272 0940. The examiner can normally be reached on 8.30 am - 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on (571) 272 0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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March 2, 2005